

**ALASKA STATE LEGISLATURE  
HOUSE LABOR AND COMMERCE STANDING COMMITTEE**

April 7, 2014

3:24 p.m.

**MEMBERS PRESENT**

Representative Kurt Olson, Chair  
Representative Lora Reinbold, Vice Chair  
Representative Mike Chenault  
Representative Bob Herron  
Representative Dan Saddler  
Representative Andy Josephson

**MEMBERS ABSENT**

Representative Charisse Millett  
Representative Craig Johnson

**COMMITTEE CALENDAR**

HOUSE BILL NO. 357

"An Act relating to the purchase of alcoholic beverages at a club and to access by certain persons under 21 years of age to a club's licensed premises when alcoholic beverages are present."

- MOVED HB 357 OUT OF COMMITTEE

HOUSE BILL NO. 254

"An Act relating to powers of attorney; relating to the uniform probate code; and providing for an effective date."

- MOVED CSHB 254(L&C) OUT OF COMMITTEE

HOUSE BILL NO. 336

"An Act relating to sales of alcoholic beverages near a school or church."

- MOVED HB 336 OUT OF COMMITTEE

HOUSE BILL NO. 370

"An Act relating to employer drug testing; requiring the Alaska Workers' Compensation Board to adopt regulations relating to the prescription of controlled substances to employees; and limiting the prescription of controlled substances to employees."

- BILL HEARING CANCELED

**PREVIOUS COMMITTEE ACTION**

BILL: HB 357

SHORT TITLE: ACCESS TO LICENSED PREMISES

SPONSOR(s): REPRESENTATIVE(s) SADDLER

02/26/14 (H) READ THE FIRST TIME - REFERRALS  
02/26/14 (H) L&C  
04/07/14 (H) L&C AT 3:15 PM BARNES 124

BILL: HB 254

SHORT TITLE: POWERS OF ATTORNEY

SPONSOR(s): REPRESENTATIVE(s) HUGHES, GRUENBERG

01/21/14 (H) PREFILE RELEASED 1/17/14  
01/21/14 (H) READ THE FIRST TIME - REFERRALS  
01/21/14 (H) L&C, JUD  
04/07/14 (H) L&C AT 3:15 PM BARNES 124

BILL: HB 336

SHORT TITLE: ALCOHOL SALES NEAR SCHOOL/CHURCH

SPONSOR(s): REPRESENTATIVE(s) TARR

02/24/14 (H) READ THE FIRST TIME - REFERRALS  
02/24/14 (H) L&C  
03/26/14 (H) L&C AT 3:15 PM BARNES 124  
03/26/14 (H) Heard & Held  
03/26/14 (H) MINUTE(L&C)  
04/07/14 (H) L&C AT 3:15 PM BARNES 124

**WITNESS REGISTER**

SHIRLEY COTE, Director  
Alcoholic Beverage Control Board (ABC Board)  
Department of Commerce, Community & Economic Development (DCCED)  
Anchorage, Alaska

**POSITION STATEMENT:** Answered questions regarding HB 357.

GINGER BLAIDELL, Staff  
Representative Shelley Hughes  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Testified on behalf of one of the joint prime sponsors of HB 254, Representative Shelley Hughes.

REPRESENTATIVE SHELLEY HUGHES

Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Testified as joint prime sponsor of HB 254.

KEN HELANDER, Director for Advocacy  
AARP Alaska  
Anchorage, Alaska

**POSITION STATEMENT:** Testified during the discussion of HB 254.

REPRESENTATIVE GERAN TARR  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Testified as prime sponsor of HB 336.

SHIRLEY COTE, Director  
Alcoholic Beverage Control Board (ABC Board)  
Department of Commerce, Community & Economic Development (DCCED)  
Anchorage, Alaska

**POSITION STATEMENT:** Answered questions regarding HB 336.

#### **ACTION NARRATIVE**

[3:24:14 PM](#)

**CHAIR KURT OLSON** called the House Labor and Commerce Standing Committee meeting to order at 3:24 p.m. Representatives Josephson, Saddler, Reinbold, Herron, and Olson were present at the call to order. Representative Chenault arrived as the meeting was in progress.

#### **HB 357-ACCESS TO LICENSED PREMISES**

[3:24:36 PM](#)

CHAIR OLSON announced that the first order of business would be HOUSE BILL NO. 357, "An Act relating to the purchase of alcoholic beverages at a club and to access by certain persons under 21 years of age to a club's licensed premises when alcoholic beverages are present."

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REPRESENTATIVE SADDLER, speaking as prime sponsor of HB 357, explained that this bill is an access bill. He explained that HB 357 does not allow anyone under the 21 to drink alcohol. Instead, the bill could be considered an access bill, with two elements. Section 1 relates to service members over the age of

21. This bill makes it easier for them and their spouses to enjoy companionship in the clubhouses of service and patriotic clubs, such as the Veterans of Foreign Wars (VFW) or American Legion. These are great organizations where veterans and active duty soldiers can relax with their friends and spouses and enjoy the special understanding and support from others who have been there and understand the rigors of military life. The legislature recognizes these values, and since 2006, active duty personnel over the age of 21 can enter such clubs using their military identification cards (IDs). He referred to page 1, line 10 of HB 357, which limits access to special occasions, noting this bill removes that limitation.

REPRESENTATIVE SADDLER said this bill allows spouses ages 21 and over, as well. Section 2 relates to soldiers under the age of 21 and allows them to enter licensed premises of patriotic clubs if they are members or if they are guests of members. Again, he reiterated that this bill does not allow anyone under the age of 21 to drink alcohol. He commented that military commanders will sometimes use these clubs to hold off-base commanders calls to welcome soldiers home, to give them a sendoff, or to share important information with them. He surmised that dividing the young and older soldiers could erode morale. He said this bill would allow soldiers under the age of 21 to enter such clubs if they are members or guests of members. Section 3 provides conforming language regarding the allowance for club admission granted in Section 2, emphasizing that this bill does not permit underage soldiers to drink alcohol, but rather clarifies that soldiers over the age of 21 and their spouses don't have to wait for a special occasion to visit patriotic clubs. It would further clarify that soldiers under the age of 21 can visit if they are club members or guests. He suggested that showing support for this bill would show that the legislature wants to accommodate the special needs of the young men and women in uniform who defend our freedom.

[3:27:37 PM](#)

REPRESENTATIVE REINBOLD remarked that this allows not only the spouse but also for someone under the age of 21 to visit the establishment.

REPRESENTATIVE SADDLER answered yes.

[3:28:21 PM](#)

REPRESENTATIVE REINBOLD asked the differences between patriotic clubs and a regular restaurant or bar that serves alcohol.

REPRESENTATIVE SADDLER responded that Alaska law allows access to persons under the age of 21 to enter if accompanied by an adult, but it does not allow them to drink.

[3:29:03 PM](#)

REPRESENTATIVE JOSEPHSON asked whether some fraternization rules were unique to the military, but he assumed that those rules can coexist under the bill.

REPRESENTATIVE SADDLER answered that this bill does not address fraternization.

[3:29:33 PM](#)

CHAIR OLSON, after first determining no one else wished to testify, closed public testimony on HB 357.

[3:29:54 PM](#)

SHIRLEY COTE, Director, Alcoholic Beverage Control Board (ABC Board), Department of Commerce, Community & Economic Development, said she was available for questions and the board was neutral on the bill.

REPRESENTATIVE REINBOLD asked whether she had any concerns.

MS. COTE answered that underage persons are not allowed to drink on the premises.

[3:31:07 PM](#)

REPRESENTATIVE REINBOLD referred to page 2, line 16 of HB 357, which read, in part, "(3) the person is under the age of 16 years, is accompanied by a person over the age of 21 years, the parent or guardian of the underage person consents, the premises are designed by the board as a restaurant for the purpose of this section, and the person enters and remains only for dining...." She asked whether the board is comfortable with this language.

MS. COTE answered yes; plus she pointed out added language that states the person is permitted on the premises under AS

04.11.110(g), which is the club license. Thus, the club would be treated in a similar fashion to the restaurant.

3:32:02 PM

REPRESENTATIVE REINBOLD asked how parents would give permission for youth to be on premises.

MS. COTE explained permission would happen in the same way that it currently happens with restaurants. In the event the ABC Board receives complaints about underage drinking, the board would investigate this activity. Additionally, she stated that parents or guardians consent to coaches bringing kids to have pizza; but it is up to the school and the restaurant licensee to ensure that the activity is in compliance with the law.

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CHAIR OLSON pointed out that establishments also have liquor licenses [and revocation] could be a "heavy hammer."

REPRESENTATIVE SADDLER said that the language in paragraph (3) that Representative Reinbold highlighted is existing statute and this bill does not change the law for people under 16.

3:33:26 PM

REPRESENTATIVE REINBOLD related a scenario in which VFW would change its atmosphere to more of a "Denny's" type restaurant. She did not see letters of support and wondered if any controversy exists.

REPRESENTATIVE SADDLER referred to a letter of support from a former commuted state commander of the VFW and from the commander of post 10029 in members' packets. He emphasized that VFW's are used as family meeting places. He recalled the Eagle River post 9785 facility frequently rents out its downstairs for public events although the upstairs has a licensed premise. He reminded members that this bill does not pertain to person under the age of 16 accessing licensed premises.

3:34:30 PM

REPRESENTATIVE REINBOLD acknowledged she has been to many events, but she said she has always been a guest and has been invited to attend. She wanted to be certain the people who

frequent these facilities are comfortable with this and it sounds like that is the case.

REPRESENTATIVE SADDLER related that he was in Eagle River for the Vietnam Veteran's welcome home day ceremony and was encouraged to pursue this bill, thus there has been interest in his home town for the bill.

[3:35:11 PM](#)

REPRESENTATIVE JOSEPHSON asked whether this bill would include the Elks or Moose club or only to military affiliations.

REPRESENTATIVE SADDLER related his understanding that a patriotic license is distinct from the fraternal organizations.

MS. COTE explained that the club license authorizes a club or organization, which is a club for fraternal organization, patriotic organization, or social organization that has been chartered by a state or national organization for a period of two consecutive years prior to an application for a license under the section. Or it could be chartered by the national organization that has maintained a chartered club or organization for 20 years in the state. Thus, if a club meets either one of those criteria, it can have a club license.

REPRESENTATIVE JOSEPHSON said it sounds like the answer is yes.

[3:36:22 PM](#)

REPRESENTATIVE JOSEPHSON asked whether the [Benevolent and Protective Order of] Elks Club and {Loyal Order of} Moose club fall under this rubric.

MS. COTE answered yes.

REPRESENTATIVE REINBOLD moved to report HB 357 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 357 was reported from the House Labor and Commerce Standing Committee.

[3:37:17 PM](#)

The committee took an at-ease from 3:37 p.m. to 3:40 p.m.

**HB 254-POWERS OF ATTORNEY**

3:40:41 PM

CHAIR OLSON announced that the next order of business would be HOUSE BILL NO. 254, "An Act relating to powers of attorney; relating to the uniform probate code; and providing for an effective date."

REPRESENTATIVE REINBOLD moved to adopt the proposed committee substitute (CS) for HB 254 labeled 28-LS1057\U, Bannister, 3/6/14, [Version U] as the working document.

CHAIR OLSON objected for the purpose of discussion.

3:41:14 PM

GINGER BLAIDELL, Staff, Representative Shelley Hughes, Alaska State Legislature, explained the changes in Version U. She stated that the bill is lengthy and technical. The sponsor decided to file the bill just prior to the filing deadline and to make technical corrections to the bill later, which were incorporated into Version U. The power of attorney bill does primarily four things, she explained. First, page 2 outlines the power of attorney structure so the principal, who has the assets, is more likely to consider each type of financial power that is being awarded to the agent, who will be acting on their behalf. Additionally, referring to page 27, language was added to improve the ability for an agent to be removed of his/her powers in the event dishonesty or a breach of the agreement occurs. Second, a new section on page 28 specifies the agent's duties and it specifically identifies the duties of a person who obtains the power of attorney. Third, page 32, proposed Section 24, outlines the criteria for acceptance of power of attorney. Fourth, the language on page 34 was added that outlines the steps taken when a power of attorney is terminated or if the agent resigns, which previously was not clearly defined.

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MS. BLAISDELL commented that language is updated throughout the bill so disability was replaced with incapacity. For example, there may be a number of instances in which a person may not be capable of making financial decisions due to the person being out of the country, missing, or temporarily injured. Thus, incapacity was a more appropriate term, which is defined on page 36 in paragraph (3).

3:44:19 PM

MS. BLAISDELL provided a section-by-section analysis of HB 254, Version U. Section 1 would replace the current definition of an agent. She related that previous terms included "attorney-in-fact" and other terms that applied to the agent; however, this bill defines "agent" and replaces the terms with "agent." Section 2, a technical change, corrects the definition of "state" to include the U.S. Virgin Islands. Section 3 adds new definitions for "durable," "electronic," "power of attorney," "principal," "record," and "sign" as these terms relate to this act. She added that "sign" means, "with present intent to authenticate or adopt a record..." She pointed out that some individuals suffering from arthritis can barely sign their name once and this is intended to be less burdensome.

[3:45:53 PM](#)

REPRESENTATIVE JOSEPHSON referred to the new definition for "durable" and asked whether it will it apply to living wills.

MS. BLAISDELL said the definitions only apply to this act.

REPRESENTATIVE REINBOLD remarked that she particularly liked the changes on page 3 and 4 since the transactions designating the power of attorney are broken into categories.

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REPRESENTATIVE CHENAULT recalled the last power of attorney he was involved in and asked why a power of attorney is not acceptable in small claims case.

REPRESENTATIVE JOSEPHSON answered that he was unsure, but the court has separate civil rules for small claims, which fall under district court rules.

MS. BLAISDELL related that the definition of "sign" in Section 3, allows the person to adopt a tangible symbol or electronic sound. Thus, a person could fill out the forms, she said.

[3:48:28 PM](#)

MS. BLAISDELL stated that Section 4 amends the statutory form required to assign a power of attorney, from giving the person single powers to opt out of each choice, with the intent of allowing the incapacitated person the opportunity to make better choices by helping inform the party what functions are being

signed over. She emphasized that this represents the most significant change, which was recommended by the long-term care ombudsman and some senior centers, so that one signature doesn't encompass and transfer power over every legal transaction.

REPRESENTATIVE REINBOLD remarked that she is very excited. She predicted that the changes this bill makes will be very helpful.

[3:49:42 PM](#)

MS. BLAISDELL referred to Section 5, which amends the statutes that remove the powers to revoke, create, or modify a trust as a general authority. Throughout this bill, language "revoke, create, or amend a trust" is removed, she said.

MS. BLAISDELL said three areas must be specifically initialed or the agent or agents will not have the power of authority since these areas can greatly impact the incapacitated person: first, for the authority being granted to create, amend, revoke, or terminate an inter vivos trust; second, for the authority to make a gift, subject to the limitations of AS 13.26.244 (h) and any special instructions in this power of attorney; and third, to create or change a beneficiary designation. Again, these three areas may be overarching of some of the other areas and must be specifically granted to the agent or agents, she said.

[3:50:43 PM](#)

REPRESENTATIVE REINBOLD referred to page 4, line 20 and asked whether this would be a living trust.

MS. BLAISDELL answered yes, that an inter vivos trust is used in estate planning and is also known as a living trust.

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MS. BLAISDELL related that Sections 6-7 removes "revoke, create or modify a trust" since it must be specified. She related that Section 8 allows the agent to credit and debit cards. She clarified that the last time the power of attorney statutes were considered was in 1988 and not everyone had electronic transactions; thus, this will move power of attorney actions into the 21st Century.

MS. BLAISDELL stated that Section 9 amends existing statute to conduct additional business related actions to further protect the interests of the principal; Section 10 amends existing

statute to exercise investment powers available, which had not previously been included, and Section 11, on page 16, would repeal powers for the agent to receive general authority with respect to gift transactions.

MS. BLAISDELL said that Section 12 would amend statutes to further define insurance transactions and allow the power of attorney to make decisions on insurance and issuance payments. Page 22 relates to provisions for personal representative authorizations to make child support payments and assist the principal who normally provided support for someone to continue to provide it.

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REPRESENTATIVE CHENAULT asked whether an agent would exercise the authority to allow a person to live in customary support. He asked for clarification on how that would affect the power of attorney and whether it would take away or expand the authority. He wondered if the agent would take the power away and "control the purse strings."

MS. BLAISDELL suggested there were two ways to think about it. First, the principal could select to have the agent take specific action, such as to only balance the principal's checkbook. The existing law allows the power of attorney to maintain customary standard of living for the spouse, children, and other dependents. She explained that [paragraph (1)] added a child "later born" and she was unsure if it would give more or less authority. She commented that it could be circumstantial to the person making the choices.

[3:56:41 PM](#)

MS. BLAISDELL referred to page 24, paragraph (15), which notes that the agent may be privileged to Health Insurance Portability and Accountability Act (HIPPA) protected information in instances in which the agent has been asked to take care of some of the health care on behalf of the principal. She turned to page 25, Section 15, which gives the power of attorney or civil or military service benefits, which has arisen due to the U.S. involvement in which some military with overseas action did not return home in same capacity. She referred to page 26, proposed Section 16, which she said relates to retirement plans.

MS. BLAISDELL stated that Section 17 relates to the state recognizing power of attorney executed in another state so long

as it was completed under the rules of the other jurisdiction. She explained that Section 18, which was supported by the long-term ombudsman, addresses relieving a power of attorney if the person committed dishonesty with an improper motive or with reckless indifference. She explained that previously it wasn't possible to remove a person once they had the power of attorney.

[3:59:24 PM](#)

CHAIR OLSON asked for clarification on the numbering sequence.

MS. BLAISDELL agreed that she may have started with the original bill so the sections didn't match Version U. She reported that Section 19 includes all of the agent's duties, including acting in good faith, and within the scope of duty granted to an agent. She reiterated that it describes the duties of an agent, as well as provisions if a breach of agreement occurs.

MS. BLAISDELL related that Section 20 replaces "principal" "incapacity" and "agent" throughout the bill. She characterized the changes as being technical changes.

[4:01:07 PM](#)

MS. BLAISDELL pointed out that Section 22 identifies how incapacity is determined, including when a principal suffers an impairment in his/her ability to receive and evaluate information or make or communicate decisions, or because the principal is missing, detained or incarcerated. She stated that Section 24 explains the acceptance of power of attorney so agents can better understand their responsibilities on behalf of the principal. Section 25 outlines the termination of power of attorney and Sections 26 and 27 are technical changes. Section 28 adds additional definitions, including benefits from government programs or civil or military service, good faith, incapacity, and retirement plans. She summarized the four primary changes in the bill. It would also revise the form to make it more responsive for principals so they can better understand the authority they are giving the agent. It improves the language to remove a power of attorney if the person is not acting appropriately. It identifies the duties of a power of attorney. Finally, it changes some definitions.

[4:02:48 PM](#)

REPRESENTATIVE JOSEPHSON acknowledged the complexity of family law, noting the frequent use of conservatorship and trustees.

He asked how this interacts with those terms, in particular, conservatorship, in which someone has similar powers, but is deemed conservator.

MS. BLAISDELL answered that she was unsure. She stated that all definitions were specific to a power of attorney.

[4:03:39 PM](#)

REPRESENTATIVE JOSEPHSON asked whether a model law was used to craft the bill or if the sponsor proposed the concept.

MS. BLAISDELL answered that the AARP first suggested the changes.

[4:04:05 PM](#)

REPRESENTATIVE SHELLEY HUGHES, Alaska State Legislature, stated that she was first approached by people at the senior center. She discussed this with AARP and considered uniform law changes and which ones made sense in Alaska. She said that the sponsor has worked with the Association of Mature Americans, the AARP's counterpart, and the organization has been supportive. Further she worked with the long-term care ombudsman and the governor's office and said it is a joint effort. She related that the last substantial work on this section of law was done in 1988. About one in seven Alaskans is age 60 or older. She also pointed out the importance of assisting vulnerable Alaskans and helping children assist their parents. These changes are compatible with interstate laws, which she said was a reason to consider the effects of the uniform law, especially since it is likely Alaskans will be separated from their parents by a state line.

[4:07:10 PM](#)

REPRESENTATIVE REINBOLD referred to page 3 line 31, subparagraph (G), estate transactions. She related a scenario in which a principal requests a will, but subsequently gives someone the ability to handle estate transactions. She also referred to page 4, line 26-28, that agents can be different agents. She asked who would have the authority.

[4:08:31 PM](#)

MS. BLAISDELL referred to subparagraph (G) and pointed out that page 21, Section 13, identifies the structure for power of attorney for estate transactions. She recalled the legislative

attorney's explanation that a will is used when a person dies, and a power of attorney is used when the person is living. The provisions in a will might flip completely, versus what the principal outlines in the power of attorney for the day to day actions.

REPRESENTATIVE JOSEPHSON said he believed she is correct.

CHAIR OLSON said he likes the bill and he hoped the sectional will better match the bill at the next committee.

[4:10:22 PM](#)

KEN HELANDER, Director for Advocacy, AARP-Alaska, said that he and his predecessor, Pat Luby, have worked on this issue with the sponsor and believes this bill protects the interests of older Alaskans. He related that a power of attorney is a legal document used by an individual, the principal, to name someone else, the agent, to make financial decisions and to act on the principal's behalf. He clarified that this is not a health care power of attorney and it does not offer health care decisions, but it does authorize planning for the possibility of future incapacity and avoid the court appointment of a guardian or conservator. He pointed out that a power of attorney is private, without any oversight by a court.

MR. HELANDER said that state laws are often unclear about the duty owed by the agent to the principal. This combination of broad authority, lack of oversight, and unclear duties makes it possible for agents to misuse their authority. He said power of attorney abuse, often called a "license to steal," is a form of financial exploitation. To help curb this type of elder financial exploitation, AARP supports state efforts to expand the power of attorney laws by adopting reforms at least as stringent as those outlined in the uniform power of attorney act. The act contains provisions that aim to promote autonomy and to prevent power of attorney abuse. The most important of these provisions pertain to the "hot powers." Under the current statute, the principal gives blanket consent to these powers with a signature unless they intentionally cross them off a list. This bill, following the uniform power of attorney format, requires the principal to opt in by initialing each specific power. This action requires careful consideration as to the duties being delegated to the agent and lessens the opportunity for exploitation. Additionally, this bill more clearly defines the responsibilities of the agent to protect the interests of the principal and it sets out guidelines for third

party acceptance. He concluded that the AARP supports HB 254, Version U, and believes it will strengthen protection of vulnerable adults in Alaska. He said that 13 states have enacted the Uniform Power of Attorney Act, with Hawaii and Iowa awaiting their respective governor's signatures to become the 14th and 15th states. Connecticut and Kansas are also considering these changes. He encouraged committee members to help include Alaska on this growing list.

[4:14:11 PM](#)

CHAIR OLSON, after first determining no one else wished to testify, closed public testimony on HB 254.

CHAIR OLSON removed his objection.

REPRESENTATIVE JOSEPHSON said he thinks this is a good bill. He referred to page 3, which requires a principal to initial certain authorizations that might be a problem if the person is truly incapacitated and can't initial. He suggested that these provisions might be dealt with in another committee and aren't a reason to stop the bill.

[4:15:13 PM](#)

REPRESENTATIVE REINBOLD moved to report the proposed committee substitute (CS) for HB 254 labeled 28-LS1057\U, Bannister, 3/6/14, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, the CSHB 254(L&C) was reported from the House Labor and Commerce Standing Committee.

[4:15:31 PM](#)

The committee took an at-ease from 4:15 p.m. to 4:18 p.m.

#### **HB 336-ALCOHOL SALES NEAR SCHOOL/CHURCH**

[4:18:17 PM](#)

CHAIR OLSON announced that the final order of business would be HOUSE BILL NO. 336, "An Act relating to sales of alcoholic beverages near a school or church."

[4:18:29 PM](#)

REPRESENTATIVE GERAN TARR, Alaska State Legislature, stated that HB 336 will increase the buffer between premises selling liquor

and schools or churches from 200 to 400 feet. In response to a question, she acknowledged the bill is not retroactive.

[4:19:17 PM](#)

REPRESENTATIVE CHENAULT asked how many facilities currently lie within 200-400 feet of school or church facilities.

REPRESENTATIVE TARR said the department only tracks the current restrictions, which prohibit alcohol sales within 200 feet of schools or churches. In response to a question, she agreed that any existing facility would not be affected, but it would limit new establishments to 400 feet.

[4:20:23 PM](#)

REPRESENTATIVE CHENAULT related a scenario in which a church moves into a mall with a liquor store or bar. He asked how this bill would affect the existing liquor store or bar.

REPRESENTATIVE TARR answered it would be prohibited within 400 feet of the entrance. She explained the calculations, which may include walking to the sidewalk, crossing a street, and resuming walking on a sidewalk so the measurements mirror the typical pathway to travel to and from the establishment.

[4:21:18 PM](#)

REPRESENTATIVE CHENAULT related a scenario in which a new charter school moves into a neighborhood strip mall. He asked whether the onus would be on the school to find another place or if the existing alcohol establishment would be displaced.

REPRESENTATIVE TARR answered that the charter school would need to pick a different location.

[4:22:21 PM](#)

REPRESENTATIVE REINBOLD related that some charter schools meet temporarily in churches. She asked for clarification on the measurement and if it is door to door or from the property line.

REPRESENTATIVE TARR answered by reading language [Section 1, page 2, lines 13-15], for the restriction, which read: "(B) the premises would be located in a building having a public entrance within 400 [200] feet of the boundary line of a school or a church building in which religious services are being regularly

conducted;...." She clarified that current law is 200 feet and this bill would increase the limit to 400 feet.

[4:23:43 PM](#)

REPRESENTATIVE REINBOLD said that there could be a big difference between door to door and driveway. She asked if the entrance means the physical entrance or the driveway entrance.

REPRESENTATIVE TARR recalled discussing this point with the department and related that it viewed it as "door to door" and not "as the crow flies" or the shortest distance. It would include the distance and route a person would take to travel from one establishment to the other.

[4:24:32 PM](#)

REPRESENTATIVE REINBOLD asked for further clarification that it would be a door to door measurement.

REPRESENTATIVE TARR agreed. She read [page 2, lines 6-8] of HB 336, which read, "... is measured from the outer boundary line of the school or the public entrance of the church building by the shortest pedestrian route to the nearest public entrance of the restaurant or eating place;". She highlighted that the aforementioned is existing language in statute and reflects the current measurement.

[4:24:59 PM](#)

REPRESENTATIVE JOSEPHSON asked if a school could waive this.

REPRESENTATIVE TARR answered no. The intent of the bill is to extend a buffer for all future schools and churches and it would apply to both schools and churches.

[4:25:36 PM](#)

REPRESENTATIVE SADDLER expressed concern that this bill represents a statewide solution to a local problem. He said that this bill might put distance between schools and liquor establishments, but this bill does not address or fix alcoholism. It just puts the problem farther out of sight. He suggested it could be argued that allowing children to see the effects of alcohol abuse would be a disincentive to take up drinking. He stated he was glad that bill would only apply to future construction and is not retroactive. He indicated his

intent and desire is not to have someone come back to the legislature and expand the buffer and require bars be moved. He acknowledged that the bill would protect some kids.

REPRESENTATIVE TARR said she appreciated his comments. She acknowledged the importance of not getting ahead of what the bill might do. She offered her hope that this bill might be a part of a bigger effort on the issues of alcoholism although this bill does not address it.

[4:27:00 PM](#)

CHAIR OLSON answered that some of the larger churches have parking lots which extend to 400 feet. He suggested that 400 feet is probably a good compromise.

REPRESENTATIVE TARR reported that most other states have buffers greater than 200 feet, with 200 feet being at the low end, and 1,000 feet at upper range. The other states also had a variety of ways to measure the distance. She stated that Alaska is on lower end for buffers, which is one reason for the bill.

[4:27:42 PM](#)

REPRESENTATIVE JOSEPHSON asked whether the Cabaret, Hotel, Restaurant & Retailer's Association (CHARR) has taken a position on this bill.

REPRESENTATIVE TARR answered no. She said that she has been in close contact with CHARR and does not want this bill to be anti-business. She related her understanding that the business owners are responsible and everyone is trying to work on the same problems without placing fault on anyone. She has kept CHARR informed and to date no one has responded in that way.

CHAIR OLSON surmised that if the restriction had been increased to 500 feet or 1,000 feet that someone from CHARR would be testifying.

[4:28:58 PM](#)

CHAIR OLSON, after first determining no one else wished to testify, closed public testimony on HB 336.

[4:29:02 PM](#)

REPRESENTATIVE REINBOLD asked whether any church groups have "weighed in" on the bill.

REPRESENTATIVE TARR responded that this bill would affect future establishments, but she checked with churches but since the bill doesn't directly impact these churches, it wasn't a concern.

[4:29:51 PM](#)

REPRESENTATIVE REINBOLD wondered how it affects youth meeting in churches. She was unsure if the organization would be impacted.

REPRESENTATIVE TARR referred to page 1, lines 14-15, to language which states, in part, "... or a church building in which religious services are being regularly conducted; ...." She offered her belief that it is enforced based on a building but not on church youth ministry meeting in a building.

[4:30:50 PM](#)

REPRESENTATIVE JOSEPHSON asked whether restaurants that serve beer and wine would be subject to the additional restrictions under the bill.

REPRESENTATIVE TARR answered yes, for future locations near a school or church.

[4:31:06 PM](#)

REPRESENTATIVE HERRON related his understanding that establishments with liquor licenses shouldn't be located within 400 feet of a school or church. He asked how the bill would affect a church or a school that wants to move into a mall. He wondered if the liquor license could be renewed.

REPRESENTATIVE TARR asked for clarification on the question.

CHAIR OLSON suggested clarification on the effect of liquor license renewals if a school or church moves within 400 feet of an establishment.

REPRESENTATIVE TARR related her understanding that the liquor license owner would not be affected. She clarified that the owner would be "grandfathered in" as an existing licensee. She believed it would be the church's responsibility to find a location that is outside the 400 feet.

CHAIR OLSON related his understanding that the church can't argue against the liquor license renewal if it moved in.

REPRESENTATIVE TARR agreed. She stated that the church would need to follow the 400-foot buffer.

[4:33:27 PM](#)

REPRESENTATIVE HERRON pointed out that the bill doesn't clearly state this but only discusses the liquor premises not being closer than 400 feet to a school or church. He said he appreciated the intent of the bill.

REPRESENTATIVE TARR explained that [the 200-foot] buffer is existing statute so it is the way it's being enforced now. She surmised that when the existing statute was passed it must have been the most appropriate way to insert the boundaries.

[4:34:35 PM](#)

CHAIR OLSON related his understanding that the bill addresses relocation of the liquor establishment to the church.

REPRESENTATIVE HERRON agreed, but referred to Section 2 line 12, which relates to restriction of location near churches and schools. He asked why this language doesn't also provide a restriction of location near liquor stores.

REPRESENTATIVE TARR responded that these changes fall under the alcohol section of the statutes. Thus, the context is from the perspective of the liquor licensees and the owner's relationship with the church and school. She suggested different statutes might focus on the perspective of schools or churches.

The committee took an at-ease from 4:35 p.m. to 4:42 p.m.

[4:42:50 PM](#)

REPRESENTATIVE HERRON, as a follow-up to Representative Chenault's question, asked whether a church or school must consider being outside a 400-foot buffer from a licensed liquor establishment under the bill.

SHIRLEY COTE, Director, Alcoholic Beverage Control Board (ABC Board), Department of Commerce, Community & Economic Development, explained that under current law if a licensed premise is at a location and a church or school wants to move

within 200 feet of the premise that the decision would be up to the church or school to decide. She said that the ABC Board doesn't have anything in place that would require a licensee to move out of the location since the business was established in its location prior to the school or church moving in. She said that the board would make those types of decisions and it could be a consideration at the time of liquor license renewal if objections or protests arise. She acknowledged that mechanisms are in place if issues or problems arise. However, currently if a church or school has moved within the prohibited buffer zone, the board has not made the licensee shut down its business.

[4:44:33 PM](#)

REPRESENTATIVE CHENAULT related his understanding that even if the law changed to 400 feet, if a church chose to locate within that distance it would not affect the liquor licensee unless the church subsequently decided it didn't like the alcohol sales nearby and petitioned the ABC Board to try to make liquor license owners move its establishment. He asked whether this has happened or could happen.

MS. COTE answered that this has not happened although it doesn't mean it can't happen. She indicated that every other year during license renewal any person, including a locally governing body, can object to the renewal and the board would take it under consideration.

[4:46:05 PM](#)

REPRESENTATIVE CHENAULT asked whether a large church could move within 200 feet or 400 feet of a liquor establishment and create enough local pressure to cause problems for the liquor license holder and the establishment could be forced to relocate.

MS. COTE said it is a possibility, in particular, if issues or problems later arose, that the church could come to the board and it would consider the issue during renewal, although she did not recall any situation where that has happened.

[4:47:16 PM](#)

REPRESENTATIVE CHENAULT recalled reading in an Anchorage paper that a liquor store was having problems, but he was unsure if it was a church, school, or local community that had objected. He did not recall the details but he imagined that public testimony would be considered by the board.

MS. COTE recalled situations in which a licensed premise would be well outside the 200 feet but noted if the public outcry has been substantial the liquor license renewal has not been approved. She noted that this type of action could happen regardless of the distance to a school or church.

[4:48:25 PM](#)

REPRESENTATIVE SADDLER related his understanding that a church could raise issues which could affect liquor license renewal. However, this bill addresses a geographical distance. He wondered if a church moved within 200 or 400 feet of a business if the business and church could coexist just fine, but during the license renewal may raise an objection. He asked whether the aforementioned objection could be based solely on proximity.

MS. COTE answered yes. She said that even with a new liquor license application objections could certainly be raised.

REPRESENTATIVE SADDLER asked whether anything in state statute other than renewal provisions would ban a church from moving into within 200 or 400 feet of [a bar].

MS. COTE answered that is correct.

[4:49:32 PM](#)

REPRESENTATIVE REINBOLD recalled that local government has bought out space in malls. She related a scenario in which government entities, such as a school district or perhaps a preschool moves into a mall. She asked whether this would impact preschools and if preschools are considered schools.

MS. COTE said preschools are considered schools. In further response to a question, Ms. Cote indicated if the licensed premises were already on location and the school or church moved in, it would be the school or church's decision to do so. She indicated that in her experience licensees do not want to lose their liquor licenses so the owners tend to work to address any issues. She said if a school subsequently raised an issue about any premise that ABC Board would consider the issue at the time of the liquor license renewal.

[4:52:16 PM](#)

REPRESENTATIVE REINBOLD commented that it is important to address this issue and identify any parties impacted.

[4:52:43 PM](#)

REPRESENTATIVE JOSEPHSON said it seems as though a school or church could decide to locate within 400 feet of a liquor establishment, but it couldn't then question the premise selling liquor located within 400 feet of the school. However, the school could raise some other issue at the time of the liquor license renewal. He reiterated that the school or church couldn't raise the proximity argument since it was created by the school or church.

MS. COTE answered yes; however, the school could raise the issue if a problem arises. She said that the board would work with the licensee to correct any problem, for example, if complaints arose that underage persons were being served. She said that it would take a great deal to revoke an active liquor license on a mere objection. She said, "I mean it just doesn't happen."

[4:54:50 PM](#)

REPRESENTATIVE REINBOLD moved to report HB 336 out of committee with individual recommendations and the accompanying fiscal note. There being no objection, HB 336 was reported from the House Labor and Commerce Standing Committee.

[4:55:08 PM](#)

#### **ADJOURNMENT**

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 4:55 p.m.